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7 Attorneys for Defendants

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 THE CENTER FOR INVESTIGATIVE)
REPORTING,)

13 Plaintiff,)

14 v.)

15 UNITED STATES DEPARTMENT OF)
16 JUSTICE,)
17

18 Defendant.)
19
20
21

CASE NO. 3:17-cv-06557-JSC

**DEFENDANT'S ANSWER TO PLAINTIFF'S
COMPLAINT FOR INJUNCTIVE RELIEF**

DEFENDANT'S ANSWER TO THE COMPLAINT

22 Defendant, the Bureau of Alcohol, Tobacco, Firearms and Explosives ("Defendant" or "ATF"),
23 a component of the U.S. Department of Justice, by and through the undersigned counsel, hereby
24 answers plaintiff's Complaint as follows:
25

26 In response to the specifically-enumerated paragraphs set forth in the Complaint, defendant
27 admits, denies, and otherwise avers as follows:
28

1 **INTRODUCTION**

- 2 1. This paragraph consists of plaintiff's statement of the underlying action and prayer for relief, to
3 which no response is required.
- 4 2. Admit that plaintiff transmitted a FOIA request to defendant, which speaks for itself and is the best
5 evidence of its contents and date of transmittal.
- 6 3. This paragraph consists of plaintiff's legal conclusions, to which no response is required.
- 7 4. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
8 allegations in this paragraph.
- 9 5. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
10 allegations in this paragraph.
- 11 6. This paragraph consists of plaintiff's prayer for relief, to which no response is required.

12 **PARTIES**

- 13 7. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
14 allegations in this paragraph.
- 15 8. Admit.

16 **JURISDICTION**

- 17 9. This paragraph consists of plaintiff's legal conclusions, to which no response is required.

18 **VENUE AND INTRADISTRICT ASSIGNMENT**

- 19 10. This paragraph consists of plaintiff's legal conclusions, to which no response is required.
- 20 11. This paragraph consists of plaintiff's legal conclusions, to which no response is required.

21 **FACTUAL BACKGROUND**

22 **Trace Firearms Records Held by ATF**

- 23 12. Admit.
- 24 13. Admit.
- 25 14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
26 allegations in this paragraph.
- 27 15. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
28

allegations in this paragraph.

16. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

17. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

18. This paragraph consists of plaintiff's legal conclusions, to which no response is required.

19. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

20. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

21. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

22. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

23. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

24. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

25. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

The FOIA Request

26. Admit that plaintiff transmitted a FOIA request to defendant, which speaks for itself and is the best evidence of its contents and date of transmittal.

27. Admit.

28. Admit that plaintiff sought expedited processing of the FOIA request.

29. Admit that plaintiff requested a fee waiver.

30. Admit that plaintiff requested a fee waiver.

1 31. Admit that Alain Stephens sent an email to foiamail@atf.gov on May 24, 2017, which speaks for
2 itself and is the best evidence of its contents.
3 32. Admit that defendant acknowledged receipt of plaintiff's FOIA request by letter dated May 26,
4 2017, which speaks for itself and is the best evidence of its contents.
5 33. Defendant admits that plaintiff contacted defendant but lacks knowledge or information
6 sufficient to affirm the communications were as described in the paragraph.
7 34. Admit that Andrew Donohue contacted defendant via email on September 12, 2017, which speaks
8 for itself and is the best evidence of its contents.
9 35. Admit that Victoria Baranetsky sent a letter to defendant dated November 3, 2017, which speaks for
10 itself and is the best evidence of its contents.
11 36. Admit.
12 37. This paragraph consists of plaintiff's legal conclusions, to which no response is required.
13 38. This paragraph consists of plaintiff's legal conclusions and prayer for relief, to which no response is
14 required.

15 CAUSE OF ACTION

16 Violation of Freedom of Information Act

17 39. Defendant incorporates its responses to paragraphs 1-38 as if fully set forth herein.
18 40. This paragraph consists of plaintiff's legal conclusions, to which no response is required.
19 41. This paragraph consists of plaintiff's legal conclusions, to which no response is required.
20 42. This paragraph consists of plaintiff's legal conclusions, to which no response is required.
21 43. This paragraph consists of plaintiff's legal conclusions, to which no response is required.

22 REQUESTED RELIEF

23 The remainder of the Complaint consists of plaintiff's prayer for relief, to which no response is
24 required. To the extent that a response is required, defendant denies that plaintiff is entitled to any of the
25 relief requested or to any relief whatsoever. Each and every allegation not heretofore expressly admitted
26 or denied is denied.
27
28

1 **AFFIRMATIVE DEFENSES**

2 **FIRST AFFIRMATIVE DEFENSE**

3 The Court lacks jurisdiction over any matter to the extent plaintiff failed to satisfy prerequisites
4 to suit, as well as over any requests or allegations that are not contained in a Freedom of Information Act
5 request at issue in this action.

6 **SECOND AFFIRMATIVE DEFENSE**

7 The Freedom of Information Act does not authorize the relief requested.

8 **THIRD AFFIRMATIVE DEFENSE**

9 The FOIA requests that are the subject of this lawsuit implicate certain information that is
10 protected from disclosure by one or more statutory exemptions. Disclosure of such information is not
11 required or permitted.

12 Defendant reserves the right to assert additional affirmative defenses in the event that such
13 affirmative defenses would be appropriate.

14 WHEREFORE, Defendant prays that:

- 15 1. The Complaint be dismissed with prejudice;
16 2. Plaintiff take nothing by this action;
17 3. No declaratory or injunctive relief be awarded to plaintiff;
18 4. The court enter judgment in favor of Defendant; and
19 5. The court grant such other and further relief as it deems just and proper.
20

21 DATED: December 29, 2017

BRIAN J. STRETCH
Acting United States Attorney

23 /s/ Robin M. Wall
24 Robin M. Wall
25 Assistant United States Attorney
26 Attorneys for Federal Defendant
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